

WESTERN AUSTRALIA.



ANNO QUARTO

EDWARDI SEPTIMI REGIS.

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*PRIVATE ACT.*

AN ACT to enable the Members of "The Kalgoorlie Racing Club" and of "The Boulder Racing Club" to sue and be sued in the name of the Chairman for the time being of each of such Clubs and for other purposes.

[Assented to 24<sup>th</sup> December, 1904.]

**W**HEREAS by Crown Lease dated the twenty-third day of Preamble.  
January One thousand nine hundred registered Volume CLXXXVI. Folio 77 Her Majesty demised and leased unto Patrick Whelan Licensed Victualler Walter Gibson Medical Practitioner and Robert Gibson Mining Engineer all of Kalgoorlie and the survivor of them and the executors administrators and assigns of the survivor the natural surface and so much of the land as is below the natural surface to a depth of forty feet of all that piece of land situate and being in the District of Hampton in the State of Western Australia containing two hundred acres more or less and distinguished in the maps and books of the Department of Lands and Surveys of the said State as Hampton Location 2 and bounded by lines starting from a point situate East twenty-eight chains forty-four links and South thirty-one chains fifty-eight links from the East corner of Kalgoorlie Town Lot R495 and extending

one hundred and ninety-nine degrees eighteen minutes fifty chains one link partly along Maxwell Street thence two hundred and eighty-nine degrees eighteen minutes forty chains thence nineteen degrees seventeen minutes fifty chains and thence one hundred and nine degrees seventeen minutes forty chains one link to the starting point All bearings being true or thereabouts the measurement more or less and a post placed at each corner of the location as the same is delineated in the plan drawn in the margin of the said Lease together with all easements and appurtenances to the said piece of land belonging or appertaining to hold the premises thereby demised or expressed so to be unto the said Patrick Whelan Walter Gibson and Robert Gibson and the survivor of them and the executors administrators and assigns of the survivor (hereinafter and hereinafter called "the Lessees") as trustees for the "Kalgoorlie Race Club" from the first day of October One thousand eight hundred and ninety-eight for the term of Ninety-nine years thence ensuing yielding and paying therefor one peppercorn of yearly rent on the twenty-fifth day of March in each year or so soon thereafter as the same should be lawfully demanded And by the said lease it is expressly provided that the said piece of land should during the said term be used by the lessees solely for the purposes of the said Kalgoorlie Race Club and for no other purpose whatsoever without the license in writing of Her Majesty her heirs and successors first obtained And that if the lessees at any time during the said term should make default in payment of the rent thereinbefore reserved if demanded or should without such license as aforesaid use the land otherwise than for the purposes for which it had been demised it should be lawful for Her Majesty her heirs and successors unto and upon the said land or any part thereof in the name of the whole to re-enter and the same to have again repossess and enjoy as if the said lease had not been executed And by the said lease it was also provided that it should at all times be lawful for Her Majesty her heirs and successors or for any person or persons acting in that behalf by her or their authority to resume and enter upon possession of any part of the said lands which it might at any time by her heirs and successors be deemed necessary to resume for roads tramways railway station bridges canals towing paths harbour or river improvement works drainage or irrigation works quarries and generally for any other works or purposes of public use utility or convenience and for the purposes of exercising the power to search for minerals and gems hereinafter reserved and such land so resumed to hold to Her Majesty her heirs and successors as of her or their former estate without making to the said lessees their heirs and assigns any compensation in respect thereof so nevertheless that no such resumption should be made of any part of the said land upon which any buildings or improvements may have been made by the lessees without compensation And by the said lease it was also provided that it should be lawful at all times for Her Majesty

1. This Act may be cited for all purposes as *The Kalgoorlie and Boulder Racing Clubs Act, 1904.* Short title.

2. In the construction of this Act unless the context otherwise requires— Interpretation clause.

“Building” means any house outhouse stand booth stable shed tent fence or other buildings railways and tramways edifice or erection of any description whatsoever for the time being standing or being vested under or by virtue of this Act in a chairman.

“Chairman” means and includes the person who is the chairman for the time being of the committee.

“Club” or a club shall mean either the Kalgoorlie Racing Club or the Boulder Racing Club as the context requires.

“Committee” means and includes the committee for the time being of either the Kalgoorlie Racing Club or the Boulder Racing Club as the context requires.

“Justice” means a justice of the peace having jurisdiction where the matter requiring the cognisance of such justice shall arise.

“Minister for Lands” means the responsible Minister for the time being charged with the administration of the Land Act 1898 or any modification or re-enactment thereof and the Department of Lands and Surveys.

3. All actions suits prosecutions and proceedings at law or in equity by or against a club shall and may be lawfully brought or defended in the name of the chairman of such club and in all indictments and informations it shall be lawful to state the property of the club to be the property of such chairman and any offence committed with intent to injure or defraud the club shall and lawfully may in any prosecution for the same be stated or said to have been committed with intent to injure or defraud the chairman and any offender or offenders may thereupon be lawfully convicted of any such offence and the death resignation or removal or other act of such chairman shall not abate any such action suit or proceeding but the same may be concluded in the name of any person who may be or become chairman Nothing herein contained shall interfere with or affect any action suit prosecution or other proceeding commenced before the passing of this Act but the same shall be continued as if this Act had not been passed. Actions to be in the name of the chairman.

4. A memorial of the name of the chairman and of the members of the committee of a club in the form or to the effect set forth in the Schedule to this Act signed by such chairman shall be recorded upon oath in the Supreme Court of the State Memorial of the chairman's name and members of the committee to be recorded in the Supreme Court. Schedule.

of Western Australia within one calendar month after the passing of this Act and when and so often as any chairman or member of the committee shall be newly elected a memorial of the name of such newly elected chairman or member in the same form and to the same effect as the above-mentioned memorial signed by such newly elected chairman or in the case of a newly elected member of the committee by the chairman shall in like manner be recorded upon oath in the said Supreme Court within one calendar month next after every such chairman or member shall be elected and for all purposes whatsoever the production of the memorial recorded as by this Act directed or of an office or examined copy thereof shall be received as sufficient and conclusive evidence in all courts of justice or before any person having by law or by consent of parties authority to receive evidence of all the matters contained or set forth in such memorial and the names the Kalgoorlie Racing Club or the Boulder Racing Club shall be inserted in such schedule as the circumstances of the case require.

No action to be brought until memorial is recorded.

5. Until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be brought by a club or any of the members thereof in the name of the chairman of the committee thereof under the authority of this Act.

Proceedings to be instituted against chairman.

6. All proceedings claims and demands in respect or arising out of anything done or omitted by the chairman or committee or stewards of either of the said clubs in the exercise or attempted exercise of his or their office or performance or attempted performance of his or their duties shall be brought and instituted against the chairman of such club.

Judgment against chairman.

7. Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club of which he is chairman for or in respect of any principal moneys or interest due and payable under any mortgage made by either of the clubs under the provisions of this Act shall and may take effect and be enforced and execution thereon be issued against the land property and effects of such club.

Effect of judgment against the chairman.

8. Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club of which he is chairman other than those made in respect of mortgages as provided in the last preceding section shall and may take effect and be enforced and execution thereon be issued against the property and effects of such club save and except the land by this Act vested in the chairman and his successors in office and any land hereafter granted to the chairman under and by virtue of this Act.

9. From and after the passing of this Act the said Patrick Whelan Robert Gibson and John Albert O'Meehan the present registered proprietors of Crown lease dated the twenty-third January One thousand nine hundred and two registered Volume CLXXXVI. Folio 77 and John Marquis Hopkins William Thomas Rabbish and Alfred Hopper DeBaun the present registered proprietors of Crown leases dated the nineteenth day of July One thousand eight hundred and eighty-nine and registered Volume CLXXIII. Folio 137 and the ninth day of May One thousand nine hundred and two registered Volume CCXLIV. Folio 31 respectively and the respective executors administrators and assigns or other the trustees for the time being of the land included in the said Crown leases respectively shall cease to have or hold any estate or interest in such land and without the necessity for any conveyance or other connecting title than this Act the land comprised in the said Crown lease registered Volume CLXXXVI. Folio 77 is hereby vested in the chairman and his successors in office of the Kalgoorlie Racing Club in trust for the said club and the land comprised in the said Crown leases registered respectively Volume CLXXIII. Folio 137 and Volume CCXLIV. Folio 31 are hereby vested in the chairman and his successors in office of the Boulder Racing Club in trust for the said club The said land is vested in like manner as if such chairman respectively and his respective successors in such office were in law a corporation sole and shall henceforth be held by such chairman respectively and his successors in office for the term and upon and for the trusts intents and purposes and with under and subject to the powers provisos and declarations in the said Crown leases respectively limited expressed declared and contained of and concerning the said land respectively or such of them as are now subsisting or capable of taking effect.

Racccourses vested  
in chairman.

10. It shall be lawful for a chairman to surrender to the Crown the lease or leases of the land so vested in him as aforesaid and for His Majesty to accept such surrender.

Chairman may sur-  
render leases.

11. It shall be lawful for His Majesty from time to time to demise to the chairman for any term of years in trust for the club of which he shall be chairman and for such chairman and his successors in office to hold by such demise from His Majesty for the purposes of this Act the said land by section nine hereof vested in him and his successors in office and such other lands in Western Australia either contiguous thereto or otherwise as the Governor in Council may think fit.

Crown may  
devise lands to  
chairman.

12. All lands tenements and hereditaments and all personal chattels and effects which now are vested in or held by any person or persons whomsoever in trust for or for the benefit of a club or the members thereof shall immediately upon the passing

Lands and other  
property to be  
vested in chairman.

of this Act become and be vested in and be held by the chairman and his successors in such office in trust for such club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate and all lands tenements and hereditaments and all personal chattels and effects which may hereafter be contracted for or be acquired by or belong to the club of which he is chairman or the members thereof collectively may be conveyed assigned and assured to and shall thereupon become vested in such chairman and his successors in such office in trust for the club and in like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate.

Lands vested in chairman to be held for the purposes of the club.

**13.** The lands by this Act vested in or authorised to be granted or demised to the chairman or held by him shall be held by such chairman and his successors in office only for the purpose of being maintained and used for the purposes of the club under and subject to the provisions of this Act and any by-laws to be made under and by virtue hereof and save as herein expressly provided shall not be used demised or let for building purposes or unless with the permission in writing of the Minister for Lands first had and obtained for any other purpose whatsoever.

Lands already demised to be held for the purposes of the club.

**14.** The lands demised by the said Crown leases shall notwithstanding the expiration or sooner determination of the term created by the said leases or either of them or by any demise hereafter to be made thereof be and remain vested in and held by the chairman for the purpose in the last preceding section mentioned subject only to the rights of His Majesty his heirs and successors.

Buildings may be maintained and erected.

**15.** The committee of a club may maintain any buildings now standing and being upon the said land hereby vested in the chairman thereof and may from time to time build or erect upon the said land or any other land for the time being vested in the chairman either in addition to or substitution for the building now standing thereon all such other buildings as may in the opinion of the committee be necessary or expedient for or in connection with the use of the said land for the purposes of the club.

Committees may make by-laws.

**16.** The committee of a club may with the approval of the Governor from time to time subject to the provisions of this Act make repeal or alter by-laws for giving effect to this Act in respect of the land so held by the chairman thereof as aforesaid and in particular—

(a.) Providing for the constitution of a club and the entrance fee and subscription to be paid by members.

- (b.) Regulating the election or admission of members into a club and the expulsion of members therefrom.
- (c.) Providing for the due management of the affairs of the club including the appointment of a committee and officers defining powers proceedings and duties thereof.
- (d.) Regulating all matters concerned or connected with the land by this Act vested or which may hereafter be vested in the chairman and the admission thereto and expulsion therefrom of members of a club and the public respectively and the rates and charges to be paid for such admission.
- (e.) For the general management of the said racecourse.
- (f.) Prescribing the scale of tolls and charges from time to time to be levied or taken for admission to any lands vested in the chairman as aforesaid or buildings thereon.
- (g.) Providing for the demand recovery and receipt of such tolls and charges from any person coming upon such lands or buildings and the conditions under which he shall be allowed to remain thereon and the exemption of members from the payment of same.
- (h.) Providing for the expenditure and distribution by the committee of the funds and revenue of the club.

Provided that such by-laws be not repugnant to the laws of the State or to the provisions of this Act.

And provided, further, that before such by-laws shall be submitted for the approval of the Governor, the same shall have been confirmed by a resolution supported by at least two-thirds of the members of a club present and entitled to vote at a general meeting of the members of the club convened for the purpose of considering such by-laws.

**17.** No by-law shall be of any force or effect until the expiration of one month after the same or a copy thereof signed by the chairman shall have been sent to the Colonial Secretary of Western Australia for the time being and until publication as hereinafter mentioned and at any time within the said period of one month the Governor may disallow such by-law and after such disallowance such by-law shall not come into operation.

Disallowance of by-laws by Governor in Council.

**18.** Every by-law shall forthwith on the expiration of one month after the same shall have been sent as aforesaid if not disallowed within that time be published in the *Government Gazette* together with a notice stating when such by-law was sent to the Colonial Secretary and that such by-law has not been disallowed and such by-law shall come into operation upon such publication.

Publication of by-laws.

Effect of by-laws.

**19.** Such by-laws when published shall have the force of law and the breach thereof shall be punishable in a summary manner before a Justice by a penalty not exceeding ten pounds.

Evidence of by-law.

**20.** The production of a copy of the *Government Gazette* containing any such by-law shall be conclusive evidence that such by-law was duly made and published.

Summary interference by member of committee or officer of club.

**21.** If the infraction or non-observance of any by-law be attended with danger or annoyance to the public or hindrance to the committee or any of the officials or servants of the club or the public in the lawful use of the said racecourse it shall be lawful for the committee or any member officer or servant thereof summarily to interfere to obviate or remove such danger annoyance or hindrance and that without prejudice to any penalty incurred by the infraction of any such by-law or otherwise.

Obstructing officers etc. of committee or trespass upon racecourse.

**22.** Whosoever shall wilfully obstruct or impede any officer servant or agent of the committee in the execution of his duty upon any land for the time being vested in a chairman or upon or in any building or premises connected therewith or wilfully trespass upon any such land buildings or premises or remove or wilfully injure any building enclosure post tree or shrub upon any such land or who shall refuse to leave the racecourse of the club upon being requested so to do by an official of the club and upon being tendered the amount paid by him for admission to the said racecourse shall on conviction thereof before a justice forfeit and pay for every such offence over and above the amount of the injury done any sum not exceeding ten pounds.

Offender may be arrested.

**23.** Any member officer or servant of a committee and all persons called by him to his assistance may seize and detain any person who shall have committed any offence against the provisions of this Act or of the by-laws made thereunder and whose name and residence shall not be given to such member officer or servant upon his requiring the same to be given and give such offender in charge to a police constable who shall convey him with all convenient despatch before some justice without any warrant or other authority than this Act and such justice shall proceed with all convenient despatch to the hearing of the complaint against the offender.

Liability to penalty not to relieve from other liabilities.

**24.** Notwithstanding the liability of any person to any penalty under the provisions of this Act or of the by-laws made under this Act he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

Chairman may let lands buildings or tolls.

**25.** A chairman may demise and to farm let either from year to year or for any lesser term than a year but not to exceed three



years or for any particular race meeting or meetings the whole or any portion of the land for the time being vested in the chairman or any buildings erected thereon or all or any of the tolls and charges demandable under and by virtue of this Act and the lessee his collectors servants and agents shall have the same powers of demanding recovering and receiving the said tolls and charges as are hereby given to the committee and the chairman on the direction of the committee may transfer sell or assign any lands vested in him under this Act or which may be hereafter acquired by the club other than the lands forming the racecourses of the clubs being Hampton Location No. 2 and Boulder Town Lots 660 and 1551 vested in him under this Act.

**26.** A chairman may from time to time borrow and take up at interest any sum or sums of money not exceeding in the whole at any time the sum of ten thousand pounds on the security of the whole or any portion of any lands for the time being vested in him under the provisions hereof or on the credit of the rents and profits tolls charges and other revenue of a club and the money so borrowed shall be applied to the permanent improvement of the lands thereof for the purposes of the club or in the erection maintenance and repair of buildings or in providing change for conducting the operation and working of the club's totalisator at the racecourse of the club on any of the days on which racing shall take place at such racecourse under the control and management of the club or in the planting of trees or shrubs upon the said lands or in such other manner in or upon the said lands as shall be necessary or expedient for the purpose of rendering the same more convenient and useful for such purpose as aforesaid. Provided that except for providing money change for conducting the operation and working of the club's totalisator as aforesaid no money shall be borrowed under this section without the concurrence of three-fourths of the members for the time being of the club present and voting at a properly constituted meeting of the members of such club and in no case without the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council.

Power to borrow money.

**27.** For securing the repayment of any moneys borrowed as aforesaid with interest thereon the chairman shall have power with the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council to mortgage the said land and hereditaments or any portion thereof for any term of years and to assign by way of mortgage or charge the rents profits tolls charges and other revenue of the club as security to the person or persons advancing the amount of such loan and either with or without a power of sale and leasing respectively in case of default being made in the payment of the principal and interest moneys at the time or times therein to be appointed for the payment thereof

Power to mortgage.

respectively and with or without a power of distress appointment of receiver and such other accompanying powers clauses and provisions as shall be deemed expedient and to give receipts for the moneys so to be advanced And the said lands hereditaments and premises so to be mortgaged shall thenceforth be held and enjoyed by the mortgagee or mortgagees his her or their heirs and assigns freed and absolutely discharged from the trusts to which the same may for the time being be subject.

No personal  
covenant.

**28.** No covenant proviso or other matter or thing contained in any such mortgage deed or deeds or in this Act shall be deemed or construed to impose upon a chairman or the members of a club his or their executors administrators or assigns any personal responsibility for the repayment of the moneys advanced or of any interest to accrue due thereon.

No obligation on  
purchaser or mort-  
gagee to make in-  
quiries.

**29.** Nothing herein contained shall be deemed or construed to make it necessary for any purchaser or mortgagee to inquire whether the chairman of such club for the time being was duly and regularly appointed or whether the concurrence of the members of such club in any such loan has been duly and regularly obtained as aforesaid or whether the said power of sale and mortgage were duly and regularly exercised or in anywise to see to the application of any moneys raised under the authority of this Act or to inquire into the necessity regularity or propriety of any such mortgage or mortgages or to be effected by notice that the same is or are irregular unnecessary or improper.

Power to re-borrow.

**30.** If after having borrowed any part of the moneys so as aforesaid authorised to be borrowed the same or any part thereof be paid off it shall be lawful for the chairman with the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council again to borrow the amount so paid off and so from time to time.

Minister for Lands  
may authorise in-  
spection of race-  
course and build-  
ings.

**31.** The Minister for Lands may when he thinks fit authorise any proper person to inspect the whole or any part of the land for the time being vested in the chairman and all or any buildings thereon and the person so authorised on producing (if required) to any member officer or servant of the committee requiring the same his authority may at all reasonable times enter upon and examine the said land and the buildings erected and being thereon and may exercise all such powers and authorities as may be required for the purpose of such inspection.

Minister for Lands  
may give notice to  
repair, etc.

**32.** If the person so as aforesaid authorised to inspect the said land premises and buildings certify under his hand to the Minister for Lands that in his opinion the surface of the said land or any part

thereof is imperfectly kept in order for the purpose of a public racecourse or that any building thereon is in want of repair or is unsafe to the public or in any other respect improper or unfit for use and which said certificate shall contain a detailed statement of all such defects and want of repair the Minister for Lands may by notice in writing under his hand addressed to the chairman require the committee within a reasonable time after receipt of such notice well and sufficiently to repair and make good all or any of such defects and want of repair.

**33.** Every such notice with a true copy of such certificate as aforesaid shall be personally served upon the chairman or some member or officer of the committee and a true copy of such notice shall be fixed upon some part of the land or buildings the subject of such notice and every such notice so served as aforesaid and a copy of which shall have been so fixed as aforesaid shall be deemed to have been duly served. Service of notice.

**34.** The committee shall within a reasonable time after service of such notice in manner aforesaid well and sufficiently repair and make good all such defects and want of repair mentioned in the said certificate as by the said notice they shall be required to do. Committee to repair, etc., upon notice.

**35.** Before any person entrusted with the security custody or control of moneys whether treasurer collector or other officer of the club other than totalisator officials shall enter upon his office the committee shall take sufficient security from him for the faithful execution of his office. Officer to give security.

**36.** The committee shall have the sole control of and regulate the expenditure of the funds and revenue of the club and shall cause full and accurate accounts to be kept of all sums of money received or expended on account of the club and of the matters and things for which sums of money shall have been received or expended. Accounts to be kept.

**37.** The Minister for Lands may from time to time appoint an auditor for the purpose of auditing the accounts of the club and such auditor may from time to time remove at pleasure. Appointment of auditors.

**38.** The books of the club shall in each and every year be balanced up to and inclusive of the thirtieth day of April in the year preceding and forthwith on the books being so balanced an annual account shall be made up which shall exhibit a true statement of the total receipts and expenditure of the club during the year immediately preceding the thirtieth day of April with a statement of the balance of such account and such books and accounts Books to be balanced and audited.

shall be examined and audited by the auditor so to be appointed as aforesaid and the balance and account shall be certified by the chairman and by such auditor as aforesaid.

Copy of annual account to be transmitted to Registrar General.

**39.** A copy of such annual account shall be transmitted by the chairman free of charge to the Registrar General on or before the first day of June in each year under a penalty of five pounds for not preparing and rendering said account to be levied by summary process and such account shall be open at all reasonable hours for the inspection of the public on payment of a fee of one shilling.

Club not to be incorporated.

**40.** Nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the club or the members thereof or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which they would be subject or liable to either between the club and others or between the individual members of the club or any of them if this Act had not been passed.

If racecourse not maintained and used land to revert to the Crown.

**41.** If at any time after the passing of this Act the lands by this Act vested in or authorised to be demised to the chairman shall save and except with the consent of the Governor in Council given before the expiration of the period of twelve months hereafter mentioned cease for the period of twelve months at any one and the same time to be maintained and used for the purposes of the club or if without the consent of the Governor in Council the said lands or any part thereof shall be used or applied for or to any other purpose than for the purposes of the club then and in either of such cases such part of the said land so ceasing to be maintained and used or so used or applied as aforesaid as the case may be shall at the end of the said period of twelve months revert to His Majesty his heirs and successors for the benefit of the public.

Buildings to be paid for if possession resumed.

**42.** Except upon a reversion to His Majesty in pursuance of the next preceding section His Majesty his heirs or successors shall not be entitled to take or resume possession of the lands by this Act vested or authorised to be vested in the chairman without previously paying to the chairman in trust for the club the value of all buildings then erected or being upon such lands such value to be determined in case of dispute in the manner in which disputed compensation for land is required to be determined by the Public Works Act 1902.

Saving of rights.

**43.** Save as herein expressly provided nothing in this Act contained shall be deemed to affect or apply to any right title or interest of His Majesty his heirs or successors or of any body politic or corporate or of any person excepting such as are mentioned in this Act and those claiming by from or under them respectively.

SCHEDULE.

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THE

CLUB.

Memorial of the name of the chairman of the committee of  
to be recorded in the Supreme Court of the State of Western  
Australia pursuant to an Act of the Parliament of Western Australia passed in  
the year of the reign of His Majesty King Edward VII. No.

A. B., Chairman.  
C. D., }  
E. F., } Co .mittee.  
etc. }

(Signed) A. B., Chairman.

I G. H. of make oath and say that I was present and  
did see the foregoing memorial signed by the above-named chairman and that  
the said is chairman of the above-mentioned club.

Sworn this day of }  
One thousand nine hundred and }  
before me }